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BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

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NOTICE OF ALTERNATIVE POLICY OPTIONS :
FOR MANAGING CAPACITY AT LAGUARDIA :
AIRPORT AND PROPOSED EXTENSION OF :
THE LOTTERY ALLOCATION :

Docket FAA-2001-9852 -10
FAA-2001-9854 -10

COMMENTS OF
CONTINENTAL AIRLINES, INC. AND
CONTINENTAL EXPRESS, INC.

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July 12, 2001

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COMMENTS OF
CONTINENTAL AIRLINES, INC. AND
CONTINENTAL EXPRESS, INC.

Continental and Continental Express¹ concur in the decision of the Federal Aviation Administration ("FAA") to extend the current lottery allocations at LaGuardia Airport and hold a new lottery to allocate currently unused slots. Allowing carriers to retain their existing LaGuardia allocations based on the results of the December 4, 2000 slot lottery, including the contingency round, until a long-term solution for congestion at LaGuardia is implemented will minimize passenger inconvenience and avoid service disruptions. In the interest of administrative economy, the Phase One temporary extension should continue through October 26, 2002, the date proposed by FAA, or longer.

¹ Common names are used for airlines. Continental Express changed its corporate name to ExpressJet Airlines, Inc. on July 9, 2001, but it continues to do business as Continental Express.

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Continental and Continental Express state as follows in support of their position:

1. Continental and Continental Express recognize that delays at LaGuardia have decreased significantly as a result of the reduced daily and hourly operating levels implemented there on January 31, 2001. While there is serious doubt whether the forced restriction of mandatory slot exemptions at LaGuardia would comply with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"), Pub. L. No. 106-181, 114 Stat. 106-15 (2000), Continental and Continental Express agreed that limitations on flight operations at LaGuardia alleviate the pain inflicted on passengers by then-escalating delays there.² In light of the positive results achieved as a result of the lottery allocation and the need for additional time to study long-term solutions to congestion at LaGuardia, Continental and Continental Express concur in FAA's decision to extend the existing allocation and to hold an additional lottery to allocate unused capacity.³

2. Of the three Phase One solutions considered, FAA's proposed option will produce the least disruption for passengers, communities and carriers while

² See Comments of Continental and Continental Express in Docket FAA 2000-8278, filed November 20, 2000.

³ Continental and Continental Express continue to believe that market forces ultimately would have reduced the number of flights operated at LaGuardia and reserve their right to challenge the legality of FAA's imposition of flight restrictions at LaGuardia in contravention of AIR-21's mandate. Nonetheless, Continental and Continental Express acquiesce in continuation of the status quo while alternatives are under consideration.

also assuring that currently unused allocations are not wasted during Phase One.

In particular, Continental and Continental Express agree that carriers holding reallocated Legend slots based on contingency round selections in the December 4, 2000, lottery should be allowed to retain those slots during Phase One.

Withdrawing the seven previously reallocated Legend slots would unnecessarily disrupt carrier schedules and inconvenience the passengers and communities relying on those schedules.⁴

3. The Air Transport Association and the Regional Airline Association have asked FAA to extend the comment period on Phase Two options by 180 days.⁵ Continental and Continental Express agree that more time for consideration of those options is necessary in view of the broad and wide-ranging alternative policy options described by the FAA in the notice and the effect of LaGuardia delays on operations nationwide.

For the foregoing reasons, Continental and Continental Express concur in extension of the current lottery allocations with the additional allocation of unused

⁴ Continental and Continental Express believe any reduction of a carrier's entitlement to AIR-21 LaGuardia slots by the number of unusable 9 p.m. slots it returned (see 66 Fed. Reg. at 31734, June 12, 2001) would be unfair. Similarly, FAA should restore Continental's entitlement to six slot allocations that were unfairly taken away on the eve of the December 4 slot lottery after Continental Express postponed using them, in part due to uncertainty it would be permitted to use them after the slot lottery. See Letter to Lorelei Peter from the undersigned counsel, dated December 1, 2000.

⁵ See Letter to Louise Maillett and John M. Rodgers from Robert P. Warren, dated June 20, 2001, and Letter to Louise Maillett from Deborah C. McElroy, dated July 9, 2001, in Docket FAA-2001-9854.

slots proposed in Phase One and continuation of Phase One allocations through October 26, 2002, as proposed by FAA, or longer and support extension of the date for Phase Two comments requested by the Air Transport Association and the Regional Airline Association.

Respectfully submitted,

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